



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS**

DRAFT

Date:	Enrolled	Bill No:	<a href="#">Senate Bill 824</a>
Tax Programs:	Underground Storage Tank Fee Collection Procedures	Author:	Committee on Governance & Finance
Sponsor:	BOE	Code Sections:	See below
Related Bills:		Effective Date:	01/01/14

**BILL SUMMARY**

This technical and housekeeping bill contains **Board of Equalization (BOE)-sponsored provisions** to do all the following:

- Correct a code section reference in the Underground Storage Tank Maintenance Fee (Health and Safety Code (HSC) Section 25299.43);
- Correct a reference in the title provision of the Fee Collection Procedures Law (Revenue and Taxation Code (RTC) Section 55001); and
- Incorporate missing language relating to offers in compromise in the Fee Collection Procedures Law (RTC Section 55332.5).

**ANALYSIS**

**Correct reference to the imposition of the  
underground storage tank maintenance fee**  
*HSC Section 25299.43*

**CURRENT LAW**

Under current HSC Section 25299.41, an owner of an underground storage tank is required to pay a storage fee of six mills (\$0.006) for each gallon of petroleum (including, but not limited to, gasoline and diesel fuel) placed in an underground storage tank which he or she owns. Section 25299.43 imposes an additional fee of eight mills (\$0.008), for a total underground storage fee of fourteen mills (\$0.014) per gallon of petroleum placed in the tank. Section 25299.43 (g) provides that the additional fee shall be paid to the BOE under the Underground Storage Tank Maintenance Fee Law “in the same manner as, and consistent with, the fees imposed under Section 24299.41.”

**PROPOSED LAW**

This bill would amend HSC Section 25299.43 to correctly reference Section 25299.41 rather than 24299.41 as the section imposing the underground storage tank maintenance fee.

**BACKGROUND**

The Underground Storage Tank Cleanup Fund was originally established in 1989 by Senate Bill 299 (Keene). Subsequent legislation affected fees, fund accounts, repeal dates, and various other provisions, including Senate Bill 1764 (Stats. 1994, Ch. 1191) that added HSC Section 25299.43. As added, Section 25299.43 read, in part:

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*The fee imposed pursuant to this section shall be paid to the State Board of Equalization pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed pursuant to Section 24299.41.*

In 2004, Assembly Bill 1906 (Ch. 774), among other things, amended Section 25299.43 to temporarily increase the underground storage tank maintenance fee. Amendments to Section 25299.43, however, only moved the Section 24299.41 referencing error to a different subdivision.

**Correct a reference in title to the Fee Collection Procedures Law**

*RTC Sections 55001*

**CURRENT LAW**

The Fee Collection Procedures Law (FCPL) was added to the RTC as Part 30 (commencing with Section 55001) of Division 2. Section 55001 provides that this “chapter shall be known and may be cited as the Fee Collection Procedures Law.” As such, Section 55001 incorrectly cites a single chapter of the FCPL rather than referencing the law in its entirety as Part 30.

**PROPOSED LAW**

This bill amends Section 55001 to make a non-substantive reference correction to the FCPL, from “chapter” to “part.”

**BACKGROUND**

The FCPL was added by Senate Bill 1920 (Stats. 1992, Ch. 407). The FCPL contains “generic” administrative provisions for the administration and collection of fee programs to be administered by the BOE. It was added to the RTC to allow bills establishing a new fee to reference this law, thereby only requiring a minimal number of sections within the bill to provide the necessary administrative provisions. The FCPL generally provides for the BOE’s administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals procedures, as well as the BOE’s authority to adopt regulations related to the FCPL’s administration and enforcement.

**Incorporate missing language from  
the FCPL relating to offers in compromise**  
*RTC Section 55332.5*

**CURRENT LAW**

Under the existing Sales and Use Tax Law (RTC §7093.6), Use Fuel Tax Law (§9278), Cigarette and Tobacco Products Tax Law (§30459.15), Alcoholic Beverage Tax Law (§32471.5), Emergency Telephone Users Surcharge Act (§41171.5), Oil Spill Response, Prevention, and Administration Fees Law (§46628), Underground Storage Tank Maintenance Fee Law (§50156.18), Fee Collection Procedures Law (§55332.5), and Diesel Fuel Tax Law (§60637), the BOE is allowed to compromise a final tax liability if certain requirements are met.

**PROPOSED LAW**

This bill amends RTC Section 55332.5, as amended by Section 16 of Chapter 285 of the Statutes of 2012, to incorporate missing language that should have been added last year.

**BACKGROUND**

In 2008, [Assembly Bill 2047](#) (Ch. 222, J. Horton) amended the BOE's offers in compromise statutes to allow the BOE to compromise, until January 1, 2013, certain final tax, fee or surcharge (tax) liabilities of (1) businesses that are not discontinued or transferred if the final tax liability arises from transactions in which the taxpayer did not receive sales tax reimbursement or use tax, (2) persons liable as successors, and (3) consumers who incurred a use tax liability. An inadvertent error in paragraph (p)(2) of Section 55332.5 omitted the words "or financial condition of the feepayer or other person liable with respect to the" between "estate" and "fee." This omission in Section 55332.5 was again overlooked in last year's [Senate Bill 1548](#) (Ch. 285, Wyland), which extended the statute until January 1, 2018.

**COST ESTIMATE**

The costs to implement these changes are absorbable.

**REVENUE ESTIMATE**

This measure does not affect any state or local revenues.

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